IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 16805 of 2007(A)

PETITIONER:

G.JAYAKUMAR, AGED 40 YEARS,
S/O.GANGADHARAN, VILOOTHARA HOUSE,
NAGAMBADAM,KOTAYAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, (HOME), GOVT. SECRETRIAT, THIRUVANANTHAPURAM.

2. THE SUB INSPEPCTOR OF POLICE, GANDHI NAGAR POLICE STATION, MEDICAL COLLEGE, JUNCTION, KOTAYAM.

3. THE CIRCLE INSPECTOR OF POLICE, EAST POLICE STATION,KOTTAYAM.

4. THE DEPUTY SUPERINTENDENT OF POLICE, KOTTAYAM.

5. THE DISTRICT SUPERINTENDENT OF POLICE, KOTTAYAM.

6. THE ASSISTANT EXCISE COMMISSIONER, KOTTAYAM.

7. THE DISTRICT COLLECTOR, KOTTAYAM.

8. PRADEEP, S/O.APPU, PANAMPARAMBIL HOUSE, VILLOONNI P.O., ARPOOKARA, KOTTAYAM DISTRICT.

9. KUNJUMON @ JOSEPH, S/O.JOHN THAYYIL HOUSE, VILLOONNI P.O., ARPOOKARA, KOTTAYAM DISTRICT.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 PHOTOCOPY OF THE TODDY SHOP LICENCE NO.33/2007-08 IN RESPECT OF TODDY SHOP NO.54/2007-08 ISSUED BY THE ASST. EXCISE COMMISSIONER, KOTTAYAM.

EXT.P2 PHOTOCOPY OF THE PETITION DATED 31/5/2007 SUBMITTED BEFORE THE 2ND RESPONDENT WITH COPIES TO RESPONDENTS 3 TO 5.

RESPONDENTS' EXTS:

EXT.R8 TRUE COPY OF THE REPRESENTATION DTD. 5/6/2007 SUBMITTED TO THE EXCISE COMMISSIONER.

EXT.R8A TRUE COPY OF THE REPRESENTATION DTD. 5/6/2007 SUBMITTED TO THE DISTRICT COLLECTOR, KOTTLAYAM.

EXT.R8B TRUE COPY OF THE PHOTOGRAPH.

P.R.RAMAN & K.HEMA JJ.

W.P.(C)NO.16805 OF 2007

Dated this the 30th day of July, 2007

JUDGMENT

Raman,J.

Petitioner is a licensee for running a toddy shop. Ext.P1 is a copy of the licence. When he was about to start the business pursuant to the licence issued, objections were raised by the local people. In spite of the fact that he approached the police, no protection was afforded. Hence, this writ petition was filed. During the pendency of the writ petition when it was noticed that some objections are raised by the parties regarding the place where the toddy shop is functioning, interim direction was issued to the Commissioner of Excise to dispose of the petition raising such grievance and to file a report before this Court. Pursuant thereto the Commissioner of Excise has disposed of the matter whereupon, he found that the toddy shop now functioning is in an unobjectionable place. However, while the writ petition was pending and pursuant to the notice issued to all the parties including the District Collector, the District Collector by proceedings dated 12/7/2007 invoking powers under Section 54 of the Kerala Abkari Act directed the petitioner to keep in abeyance of the functioning of the shop

until further orders. This being only an interim order passed by the District Collector.

2. In such circumstances, we direct the District Magistrate to pass final orders after hearing the petitioner and also taking into consideration the report of the Excise Commissioner. Final orders shall be passed within a period of two weeks from the date of production of a copy of this judgment. As at this stage, there is an order passed by the District Magistrate directing the petitioner to keep in abeyance of the functioning of the toddy shop, it may not be appropriate to grant police protection. However, subject to the right of the parties to seek appropriate remedies against the order passed by the District Magistrate, this writ petition is closed.

P.R.RAMAN,
Judge.

K.HEMA,
Judge.

kcv.